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### **REMARKS**

This response is intended as a full and complete response to the non-final Office Action mailed August 22, 2007. In the Office Action, the Examiner notes that claims 1-11 are pending and rejected.

In view of the following discussion, Applicants submit that all of the claims pending in the application are in allowable form.

It is to be understood that Applicants do not acquiesce to the Examiner's characterizations of the art of record or to Applicants' subject matter recited in the pending claims. Further, Applicants are not acquiescing to the Examiner's statements as to the applicability of the prior art of record to the pending claims by filing this response.

### **Double Patenting Rejection**

Claims 1-9 are rejected under the judicially created doctrine of double patenting as being unpatentable over claims 1-9 of Son et al., U.S. Patent No. 6,681,326.

Applicants note the Examiner's suggestion to file a terminal disclaimer to overcome the non-statutory double patenting rejection. However, as the allowable subject matter has not been determined yet and the claims might have to be amended to distinguish the prior art, if any, Applicants respectfully request to hold the rejection in abeyance until the allowable subject matter is determined.

### **35 U.S.C. §102 Rejection of Claims 1-9 and 11**

Claims 1-9 and 11 are rejected under 35 U.S.C. §102(e) as being anticipated by Heer et al., U.S. patent No. 5,999,629, hereinafter "Heer." The rejection is traversed.

Anticipation requires the presence in a single prior art reference of each and every element of the claimed invention arranged as in the claim. Heer fails to teach or

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suggest each and every element of the claimed invention arranged as in Applicants' claim 1.

According to the Office Action, the first element of Applicants' claim 1, "at least one programming source for storing at least one partially encrypted video program," is anticipated by Heer's Video Information Delivery System 100 where encrypted video programming is stored at Video Server 60. Further, the second element of Applicants' claim 1, "a distribution center comprising a remote server...", is also anticipated by Video Server 60. (See Page 3). Applicants disagree with such an interpretation.

The above named elements of Applicants' claim 1 are two distinct elements and cannot be anticipated by one element of the Heer reference, namely Video Server 60. Heer discloses a video server for storing encrypted video programs. According to the Heer reference, a video program goes through the following steps: it is generated by a Video Program Generator 10, compressed by Program Encoder 15, encrypted by Security Module 30, and then stored at Video Server 60 for later access and decryption by subscribers. (See col. 2, lines 39-65; col. 6, lines 41-43). Therefore, after a video program is generated but before it is received by subscribers, the program is stored at Video Server 60, which is the only one storage area.

In contrast, according to Applicants' claim 1, a video program is stored first by at least one programming source (first element) and then at a remote server of the distribution center (second element), where the video program was received by the remote server from the programming source. Because Heer does not disclose two different storage areas or that Video Server 60 receives the video programs from itself, Video Server 60, at most, could anticipate only one of the elements of Applicant's claim 1.

Further, according to Applicants' claim 1, the program is stored in a partially encrypted form, and only later the remote server processes it to produce a fully encrypted program. The Heer reference neither contemplates that a program can be partially encrypted nor does it teach or suggest that Video Server 60 can produce fully

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encrypted program. It just discloses that video programs stored at Video Server 60 were encrypted by Security Module 30.

According to the Office Action, Heer's processor 45 anticipates "processing [a] partially encrypted video program ... to produce a fully encrypted video program." Applicants disagree.

First, the remote server is responsible for such processing. However, if, as stated in the Office Action, Video Server 60 anticipates Applicants' remote server, then Processor 45 anticipates the same element – the remote server. Heer discloses Processor 45 as part of the Access Control System. While Video Server 60 is in communication with Processor 45, it is entirely different element. Thus, at least two different Heer elements are required to perform functions of one Applicants' element of claim 1 – the remote server. Accordingly, Heer fails to teach or suggest each and every element of the claimed invention as arranged in claim 1.

Second, the Heer reference discloses that Processor 45 can form and transmit messages containing encrypted encryption keys received from Security Module 50 (See Col. 7, lines 13-18). However, the Heer reference neither contemplates that a program can be partially encrypted nor does it teach or suggest that Processor 45 can produce a fully encrypted program, particularly from a partially encrypted program.

Therefore, Heer does not teach or suggest each and every one of the limitations of Applicants' invention as arranged in Applicants' claim 1. Accordingly, Applicants submit that independent claim 1 is not anticipated by Heer and is patentable under 35 U.S.C. §102. Furthermore, claims 2-9 and 11 depend directly or indirectly from independent claim 1, while adding additional elements. Therefore, these dependent claims also are not anticipated by Heer and are patentable under 35 U.S.C. §102 for at least the same reasons as discussed above in regards to independent claim 1.

Accordingly, the rejection should be withdrawn.

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### **35 U.S.C. §103 Rejection of Claim 10**

Claim 10 is rejected under 35 U.S.C. §103(a) as being unpatentable over Heer in view of Garneau et al. U.S. Patent No. 5675647, hereinafter "Garneau." The rejection is traversed.

Claim 10 depends from independent claim 1 and recites additional limitations thereof. For at least the reasons discussed above, Heer fails to teach or suggest Applicants' invention as recited in claim 1 as a whole. Garneau does not teach or suggest the missing limitations. Accordingly, the combination of Heer and Garneau, in a rejection of dependent claims, would still result in a gap in the combined teachings in regards to the independent claim. As such, Applicants submit that dependent claim 10 is patentable under 35 U.S.C. §103 over Heer in view of Garneau.

Accordingly, the rejection should be withdrawn.

### **THE SECONDARY REFERENCES**

The secondary references made of record are noted. However, it is believed that the secondary references are no more pertinent to Applicants' disclosure than the primary references cited in the Office Action. Therefore, Applicants believe that a detailed discussion of the secondary references is not necessary for a full and complete response to this Office Action.

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**CONCLUSION**

Therefore, Applicants submit that all of the pending claims are allowable. Accordingly, both reconsideration of this application and its swift passage to issue are earnestly solicited.

If, however, the Examiner believes that there are any unresolved issues requiring adverse final action in any of the claims now pending in the application, it is requested that the Examiner telephone Eamon J. Wall at (732) 530-9404, so that appropriate arrangements can be made for resolving such issues as expeditiously as possible.

Respectfully submitted,

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